IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

Writ Petition No. 205 of 2005

Mr Mohammad Ali Guru Murtuza
Sh alias Mohammedali Sayyad.. petitioner
vs
State of Mah and ors..Respondents

Mr. V.S.Gokhale for petitioner

Mr Y D Mulani AGP for State

CORAM: A.P.SHAH & D.Y.CHANDRACHUD JJ.

Dated 2l.6.2005

P.C:

. The 5th respondent is a registered trust under the Bombay Public Trusts Act. The trust holds certain properties at Pune which are registered as trust properties. According to the petitioner out of the said properties CTS Nos 7l5 to 742B are not trust properties but properties of the petitioner.

. In the proceedings under section l9 of the Bombay Public Trusts Act, the Dy Charity Commissioner vide his judgement and order dated ll.l.l985 held that all the properties are trust properties . The petitioner challenged this order by filing an appeal before the Joint Charity Commissioner.The appeal was dismissed. The petitioner preferred Misc Application under section

72 of the said Act before the District Court, Pune. In the Misc Application consent terms were filed by the parties and an order dated l5.l0.l994 was passed by the District Court in terms of the consent terms.

. Nearly two years after the consent order was passed the petitioner filed review application seeking to vacate the consent order. The review application was rejected by the Addl District Judge. The petitioner challenged the said order by way of Civil Revision Application which came to be dismissed by the learned single Judge. Thereafter the petitioner filed First Appeal St No. 24470 of 200l challenging the consent order of the Addl District Judge, Pune. He has filed application for condonation of delay and on the said application rule has been issued by the learned single Judge.

. It appears that Wakf Board has issued a letter to the petitioner for transfer of the record and proceedings of the Wakf registered under the Bombay Public Trust Act to the Maharashtra State Board of Wakf. This letter ought to have been addressed to the trustees of the trust and not to the petitioner as the petitioner is claiming title adverse to the trust. According to the petitioner he is the owner

of the petitioner. Petitioner’s First Appeal is pending before this court and rule has been issued in the civil application for condonation of delay.

. In the circumstances the present petition under Art 226 is clearly not maintainable . If the petitioner wants to assert his right as owner of the property he will have to adopt appropriate proceedings in accordance with law. Petition is dismissed.